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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Letter dated 28 January 1992 from the Permanent Mission of Guatemala to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

The Permanent Mission of Guatemala to the United Nations Office at Geneva has the honour to request that the Report of the Government of Guatemala on activities related to the policy on human rights and respect of legality be circulated as a document of the forty-eighth session of the Commission on Human Rights under agenda item 19, Advisory services on the field of human rights. This report constitutes the reply of the Government to the proposals and comments of the Independent Expert, Mr. Christian Tomuschat, contained in his report to the Commission on Human Rights at its forty-seventh session (E/CN.4/1991/5 and Add.1), which was analysed on the basis of resolution 1991/51 of 6 March 1991 entitled "Assistance to Guatemala in the field of human rights", adopted without a vote. Annexed to this report is the Report of the Government of Guatemala on the process of conversations with the Guatemalan National Revolutionary Union (URNG) within the total peace plan of President Serrano, which constitutes one of the principal recommendations of the Independent Expert.

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REPORT OF THE GOVERNMENT OF GUATEMALA ON ACTIVITIES RELATED TO THE POLICY ON HUMAN RIGHTS AND RESPECT OF LEGALITY

1. When Guatemalan President Jorge Serrano Elías took office in January 1991, he found serious deficiencies in the agencies in charge of enforcing the legal system. This meant a high rate of crime and violence, including violations of human rights and the lack of credibility of and confidence in government agencies, in view of the impunity which prevailed.

2. There are two fundamental factors in this situation of impunity: institutional deficiency and human rights guarantees:

(a) The tradition of authoritarian Governments which applied law and order on the basis of a repressive system, foreign to law-enforcing democratic institutions, and which became deteriorated to the point that they no longer operated or were inexistent;

(b) The armed conflict of more than 30 years in the country.

3. With regard to the first factor, the Constitution of the Republic of Guatemala was enacted in 1985 and democratic, freely-elected Governments came into existence. These had to face the task of preserving the state of law within the framework of democratic institutions by substituting the repressive systems of previous Governments. The serious problem which has had to be faced is a situation of institutional deterioration.

4. Prior to 1986, the National Police had ceased to be capable of investigating, and had become a repressive mechanism only. The role of the office of the Attorney General had been limited and, in many cases, it covered up crimes and violations of human rights. The judiciary had lost its independence and followed the guidelines of the repressive policy of the Government.

5. The first constitutional Government, headed by Marco Vinicio Cerezo Arévalo, did not face this institutional problem and with the repressive law and order system dismantled, violence and crime increased in view of the fact that the institutional gap permitted impunity; it was therefore not possible to guarantee human rights.

6. President Jorge Serrano Elías took office in January 1991, and in his inaugural address he pledged to reform the Penal Procedures Law and to review trial systems to bring effectiveness to the application of justice and the enforcement of human rights laws, without letting the condition, hierarchy or wealth of those who violate the laws affect that effectiveness. He also pledged to fully respect the independence of the legal branch and to support the programmes developed by that body to become stronger and modern.

7. With regard to the activity carried out by the Ministry of the Interior, by the National Police and by the Public Ministry, the Government can report the following achievements.

8. In January 1991, the National Police School was closed. Police agents were hired and given no training, to the extent that it was preferable to prevent them from using weapons, for fear that they would hurt themselves.

9. Police morale, spirit and dignity were shattered; police officers had no life or medical insurance or the basic equipment required for their work.

10. The first step taken by the Government in this respect was to restore confidence in police authorities. It gave the police force its fullest support in its mission to enforce law and to be an example of that respect. To that end, it undertook several actions, among them the following.

11. The Carabineros Professional School of Chile was requested to diagnose the situation of the National Police and to submit a project for restructuring it in scheduled stages. For this purpose, a high-level delegation of carabineros came to the country and the diagnosis and project to restructure the National Police was submitted. It was approved and is presently being implemented.

12. The National Police School was reopened with a new study programme which includes a course in human rights. There are presently 1,800 police agent job openings and they will be filled only with National Police School graduates.

13. The civilian authority of the Ministry of the Interior was strengthened. The Government officials who have dared to doubt that civilian authority have been dismissed. For this reason, Attorney at Law Carlos Enrique Samayoa Cifuentes was appointed Director General of the National Police to replace Colonel Mario Enrique Pais Bolaños.

14. The activity carried out by the new Director General of the National Police is acknowledged by the different sectors of the country. The change of attitude and activity on the part of the National Police of Guatemala is undeniable. Every agent has been instructed to enforce the law without discrimination and not to accept the argument of people who think they are above the law.

15. The necessary equipment is being obtained and the necessary technical expertise is being gathered for all National Police agents to have the resources they require for their work.

16. The first selection and training stage for crime investigation personnel has been completed, in order to have trained staff to carry out all investigation activities. Several institutions and friendly countries have participated in this task.

17. A laboratory for crime investigations, donated by several countries, is being set up. The Ambassador of the United States of America offered to donate a helicopter to the National Police, in order to reduce risks in communications and the transfer of evidence from the rest of the country to Guatemala City.

18. United Nations human rights expert Dr. Marco Antonio Sagastume Gemmel taught a course on human rights to all police inspectors and officers.

19. As a result of these academic activities, the inspectors and officers drew up the Police Agent Code of Conduct.

20. Twenty law school students of Rafael Landiver University will receive training to teach human rights courses to police agents. The activity will start in February 1992.

21. A first meeting took place between police officers and teachers and directors of Casa Alianza to discuss the situation of children, particularly the so-called "Street Children", and their relationship with the National Police. This relationship has yielded fruit and other governmental and non-governmental agencies are now also participating. A similar meeting took place on 10 January 1992 at the Commission for Children of the Public Ministry.

22. It is worth mentioning that orders have been issued to arrest police agents who have been suspected of abusing children. Some police agents have already been arrested and turned over to the courts of justice.

23. Thirty thousand copies were made of an article on human rights published by the Central American Gazette, in order to have written material on that topic available.

24. The Human Rights Manual for Police Agents is being drawn up by United Nations human rights expert Dr. Sagastume Gemmell.

25. A bibliography on human rights and domestic culture has been collected for each police station. In addition, a central library with related material will open at the Ministry of the Interior in the first few days of the month of February 1992. The library will contain the work donated by the Inter-American Institute for Human Rights, by the Inter-American Court of Human Rights, by the United Nations University for Peace, by Mexico's Human Rights Commission and by Guatemala's Ombudsman.

26. As part of the academic programme on democratic culture and human rights of the Ministery of the Interior, the Minister has instructed that during 1992 priority is to be given in educational programmes for police agents and members of the Fiscal Police to human rights.

27. A seminar on human rights will take place early in February, sponsored by the Inter-American Institute for Human Rights, with the participation of National Police officers and inspectors. International police experts will address the topics of security and human rights.

28. The Public Ministry has been strengthened and reorganized, through the efforts of Attorney General Acisclo Valladares, to the extent that it can be said that the Office of the Attorney General is efficient, even within the limitations it has. The Public Ministry has only 43 District Attorneys for the entire country instead of the at least 400 needed, in view of the fact that the country's population is 9 million inhabitants, who live throughout the 22 departments of the country.

29. The Attorney-General has submitted the bill on the Public Ministry and the Attorney-General's Office before Congress. It will be the basis for the reform and reinforcement of that institution and it will serve to guarantee its autonomy, which it never before had. The bill also strengthens the capacity of the Attorney-General's Office to investigate and prosecute. The budget of the Public Ministry is twice that of 1991. With those funds the first reorganization stage will take place, increasing the delegations in the departments which at present have only one attorney, even though there are some departments with over 500,000 inhabitants. The Crime Investigation Follow-up Department will also be created and 50 additional attorneys will be hired. It is expected that, in a four-year period, the country's legal system will be sufficiently staffed.

30. It is important that we point out that with the new Organic Law of the Public Ministry and with the Penal Procedures Code, a new, modern and efficient system of justice is being created. It does not merely reform but fully replaces the archaic system in force at present. This will require a one- to two-year period of gradual implementation, for which reason bills have been submitted before Congress to reform other current laws in order to improve the legal system during the implementation period so as to be able to fight the problem of impunity.

31. With regard to the armed conflict, it has affected human rights enormously and has bred violence and crime. On the one hand, it has delayed or prevented development, which has resulted in extreme poverty in large sectors of the population and which in turn has bred violence and crime. It has not been possible to fight these effectively due to the deficiencies found in the National Police and due to the fact that it has been impossible to carry out normal security activities in areas where there is confrontation. On the other hand, subversive acts are crimes which have been left unpunished; these actions have not only been aimed against the Army, but also against the civilian population which has suffered from serious violations of their human rights as, for example, the terrorist attacks against physical infrastructure: the destruction of bridges and power transmission towers, damage to roads, mines placed in populated areas, etc., all of which has brought terror to densely populated areas.

32. The Government has had to face subversion with counter-insurgency strategies, which include the voluntary participation of the civilian population in the Voluntary Committees for Civilian Defence. In a situation of armed confrontation, excesses and violations of human rights by these committees have been unavoidable, and the difficulty of investigating and punishing them has been due to the weakness of the security forces.

33. This notwithstanding, the Government has taken measures to prevent excesses by military authorities and by the self-defence committees, as proven by the fact that members of the Army, in the Santiago Atitlán case, and members of the self-defence committees, as in the Chunimá case, are being tried.

34. President Serrano and the Army have pledged to see to it that there is full respect of legality in areas of conflict without violations of human rights by government security forces or by self-defence committees.

President Serrano, in his capacity as Commander in Chief of the Army, has made changes at the highest-ranking military levels to guarantee professionalism and the unrestricted obedience of the Constitution and the laws of the country.

35. After its defeat in the eastern part of the country and in urban Guatemala City, the guerrillas chose to hide behind the mostly indigenous populations of the western highlands. It had been difficult to introduce basic infrastructure to this region of the country due to its difficult geographic characteristics, and a confrontation started which made life even more difficult there and which resulted in problems of refugees and displaced persons and in the lack of security, education, health and the possibility to market products.

36. President Serrano's administration has pledged to make every effort to put an end to the armed conflict, and has proposed a peace plan which includes direct conversations with guerrilla leaders.

37. However, even before the signature of the peace agreement, the problem of the refugees and displaced persons is being addressed with determination, as is the problem of access by the populations in areas of conflict to health, education and markets for their products.

38. Through the Ministry of Urban and Rural Development, a programme to build roads, schools and health centres has been implemented. In Quiché, one of the areas more seriously affected and which was of concern to Professor Tomuschat, the United Nations expert adviser for Guatemala, a road section has already been built up to the village of Ilom. Construction of the road to Amachel and Cabá, the villages that Professor Tomuschat visited during his last trip, has already started. This programme, which is vital for the development of indigenous villages, will include the distribution of basic services. The Government is determined to see these villages developed and to implement similar projects in other affected areas, even though the guerrillas are carrying out actions of sabotage and harassment to prevent them.

39. In the field of health, a vaccination campaign in different areas of the department of El Quiché which were affected by the confrontation is about to be agreed on with the International Committee of the Red Cross. It will begin next February.

40. The Ministry of Urban and Rural Development and the National Peace Fund have begun a land ownership programme for returnees and displaced persons which includes financing to purchase land, free housing, fertilizers, work tools and food for one year. The programme has already started and will benefit the first 50 families in the next few days. No effort will be spared to make sure that no displaced person or returnee is excluded.

41. Following Professor Tomuschat's recommendations, contained in paragraph 18 of his report (E/CN.4/1991/5/Add.1), the Presidential Committee to Coordinate the Policy of the Executive in terms of human rights, under government resolution No. 486-91, was created. It includes the following responsibilities.

42. To oversee effective communications and cooperation with the judiciary and with the Commission on Human Rights in the protection of these rights; to coordinate the actions which, within their field of competence, are carried out by the Ministries of State and agencies of the executive to implement the policy of protection of human rights being promoted by the executive; to centralize information concerning denunciations of violations, promoting their investigation through the Ministry of the Interior and the Public Ministry by establishing a mechanism of constant follow-up of investigations of violations of human rights and of the legal procedures which may result thereof; to report to the international community and to international agencies through the Ministry of Foreign Affairs; to study and submit proposals of projects and bills to the President of laws which may be beneficial to achieve better respect for human rights; and to promote technical and financial assistance and cooperation to perfect and strengthen the democratic institutions in charge of enforcing the system of legality in the country.

43. The above high-level Committee is directly subordinate to the President, who channels all of his activities for the protection and enforcement of human rights through it. The Committee has an executive body, and its structure includes a coordinating body for the President's policy on human rights. The structure also includes the technical units of policy analysis, information, promotion of investigations, and promotion of and education in human rights. It is being organized at present and will start operations soon.

44. President Serrano, deeply concerned by the situation of those displaced and refugee Guatemalans who have suffered the anguish of the armed conflict, made the decision, through government resolution No. 68-91 of 4 February 1991, to strengthen the Special Commission for the Attention to Returnees, Refugees and Displaced Persons and transformed it into an agency which is directly subordinate to the Presidency. It includes the Vice-President of the country, who chairs it, the Ministers of Foreign Affairs, National Defence and the Interior, the Secretary-General of Economic Planning and the Presidency's Special Adviser for International Cooperation. It is expected effectively to achieve the quick return of the Guatemalans who live away from their homeland and to provide better care for displaced persons and their families in Guatemala by seeking the most appropriate way to solve the problem.

45. The Special Commission for the Attention to Returnees has begun talks with the representatives of refugees living in Mexico. They met in Guatemala between 15 and 22 November 1991 and also in San Cristobal Las Casas, Mexico. The Government expects the return of 30,000 refugees in the next two years.

46. During the visit of Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, on 12, 13 and 14 November 1991, an agreement was signed between the Government of Guatemala and UNHCR with the purpose of setting up the basis for repatriation and in order to make sure that refugees were taken care of with dignity and in security. Voluntary repatriation is sought, as set forth in the conclusions of UNHCR's Executive Committee, particularly in paragraphs 18 and 40. This document also reiterates the will of the Government to obey human rights agreements fully as well as its concern, which is reflected in its approval of the budget for the development of the conflict areas and in its financing of the National Peace Fund (FONAPAZ).

47. President Serrano felt that it was necessary to improve the quality of life of the population which suffered the consequences of the armed confrontation. In order to achieve a firm and lasting peace, the National Peace Fund (FONAPAZ) was created, through a government resolution and with the initial contribution of 35 million quetzales by the Government, in order to back up the policy of financial and technical support for the preparation, execution, supervision and follow-up of programmes and projects aimed at giving immediate attention to the population of refugees, returnees and displaced, demobilized and settled persons, as well as of other groups of persons affected by the armed conflict.

Annex

REPORT OF THE GOVERNMENT OF GUATEMALA ON THE PROCESS OF CONVERSATIONS WITH THE GUATEMALAN NATIONAL REVOLUTIONARY UNION (URNG) WITHIN THE TOTAL PEACE PLAN OF PRESIDENT SERRANO

The peace negotiation process

1. After 30 years of internal armed confrontation, it was not until 1990 that a process to seek peace through peaceful means was established. On 30 March 1990, the Oslo Accord was signed in the capital of Norway, establishing the general purposes, activities and mechanisms of the current peace negotiation process between the Government of Guatemala and the Guatemalan National Revolutionary Union (URNG) which is formed by three guerrilla groups and by the Communist Party called the Guatemalan Labour Party.

The Oslo Accord

2. The purpose of this Accord is to procure a political solution to the internal armed confrontation and the reconciliation of Guatemalan citizens, and to perfect a functional and participatory democracy. The Accord establishes two phases, the first one devoted to meetings of URNG with the political, economic and social sectors of the country and the second phase to negotiations between the Government and the guerrillas.

3. The Accord appoints Monseigneur Rodolfo Quezada Toruño as "Conciliator", in his capacity as Chairman of the National Reconciliation Committee (CNR), with full powers to propose initiatives and actions, maintain a dialogue and perform any good offices as might be necessary to encourage the peace process. Mr. Javier Pérez de Cuéllar, United Nations Secretary-General, was also requested to observe the activities and to act as a guarantor of the agreements and commitments resulting therefrom.

4. The Oslo Accord goes beyond the Esquipulas II Agreement in that the Governments, in the search for peace, would undertake negotiations with unarmed opposition groups.

5. The Oslo Accord establishes as a *sui generis* condition of the Guatemalan peace process that it should be autonomous, because the conciliation and mediation actions are undertaken by Guatemalan citizens who, to fulfil their goals, have the understanding and support of the international community.

Early meetings

6. During the first stage of the peace process, the following meetings were held:

(a) With representatives of the political parties, in El Escorial, Spain, 27 May-1 June 1990;

(b) With the business sector (CACIF), in Ottawa, Canada, 31 August-1 September 1990;

(c) With religious groups, in Quito, Ecuador, 24-26 September 1990;

(d) With social and people's groups, in Metapec, Puebla, Mexico, 23-25 October 1990;

(e) With academicians, managers of small enterprises and members of cooperatives in Atlixco, Puebla, Mexico, 27-28 October 1990.

7. From the meeting held by URNG with the represenatives of the political parties, the "Escorial Accord" was reached, which acknowledges the need for a constitutional amendment, the solution of the national problems through political means, unrestricted respect for and enforcement of the law and for making feasible the incorporation of URNG in the political process of the country.

8. Final statements were adopted by each of the meetings held by URNG with the various social sectors, expressing a desire for peace, strengthening of democracy and a fair solution to the national issues.

The Government's commitment to peace

9. In his inaugural speech on 14 January 1991, Mr. Jorge Serrano declared that the most important task of his Government was to obtain peace and the reconciliation of the Guatemalan family. Nobody has doubted the veracity of this solemn commitment, given the political path of Mr. Serrano as a member of the National reconciliation Committee and signatory to the Oslo Accord and not to say the least of his first year of Government, where the foundations for obtaining peace within the scheme of full guarantees of the citizens' rights were established.

10. In an official letter dated 28 February 1991, President Serrano informed the Chairman of CNR of the commitment of the Government of Guatemala to acknowledge and carry out in good faith the Oslo Accord. In that letter, the Government confirmed its appreciation for the patriotic work achieved by the CNR for the qualities of the Conciliator and his important duties, as well as for the usefulness of continuing with the offices of an Observer appointed by the United Nations Secretary-General. The terms of this letter were confirmed by the President in another letter, dated 14 March 1991, also addressed to the Chairman of CNR, in order to express the desire of the Government to deal seriously with the concrete aspects involved in the definitive solution of the armed confrontation and to state his resolution to attend, through high-level delegates, any preparatory meetings necessary to reach, without delay, a final peace agreement at Oslo.

11. CNR was completed by incorporating new government representatives and representatives of the opposition parties.

12. The Government again stressed the importance of the peace process by appointing a numerous delegation at the highest levels, both civil and military. The delegation included six civilians (two ministers, the General Secretary of the President's Office and three presidential advisers) and five army men (the Assistant Chief of the Army General Staff and the chiefs of the main military bases).

The main criteria for peace

13. On 8 April the President of the Republic informed both the national and international public of the "Initiative for the Total Peace of the Nation", meaning that a total and final peace should not be restriced to a mere cease-fire, but that it should also establish the grounds for reconciliation and the harmonious coexistence of the Guatemalan family on the basis of the following proposals:

(a) Cessation of the armed struggle

Demobilization of insurgents, and as a result thereof the suppression of counter-insurgency operations. Reincorporation of former combatants into legal political life, and to assure the return and reincorporation of villages uprooted by violence into the social life of the country;

(b) Better economic and social equity

The need to extend and reinforce the programmes developed by the Government of the Republic is recognized in order to overcome the conditions of extreme poverty and indigence under which many sectors of our population are now living, to support the modernization of our economy, and to provide solutions to the urgent issues of communications, health, social security and welfare. With the cessation of the armed struggle, the Government of the Republic may assign more funds to attend to the serious lack of equilibrium prevailing in the country, which is a source of dangerous social strains and which may be solved by claiming the economic and social rights of all human beings, a condition for living in democracy and a guarantee for the preservation of peace. Total peace cannot exist without social peace, and for this purpose a reinforcement of the public welfare structure by the Government is necessary.

(c) Respect for and strengthening of the legal system

The legal system demands that all the inhabitants of the country must be law-abiding. The Government must strengthen the legal system to achieve higher levels of safety for individuals and their property, as well as respect for human rights. Total peace can only be perpetuated and strengthened if there is a genuine system of law, where the law shall be applied fully and equally to everybody.

(d) Deepening the democratic process

Notwithstanding the undeniable improvements achieved in the establishment of democracy, as a political system and as a form of social coexistence, it is necessary to intensify the actions for its perfection by strengthening the democratic institutions; the free, conscious and organized participation of the entire population in the permanent process of decision-making, through management decentralization, strengthening of local government, and revalorization of Mayan culture.

14. Furthermore, it is necessary to state:

(a) That the Government attends peace talks not as a contestant, at same level as the guerrillas, but by constitutional mandate, on behalf of country, and because the use of violence is unjustified under circumstance where the channels of political participation are open, with full guarante for any and all ideological and political groups;

(b) That in the aspects of general national interest, the guerrillas constitute only one of the several spokesmen of the Government. As is pub knowledge, the Guatemalan guerrillas are a small group (not exceeding 800 men), and it has not increased in the last years. On the contrary, it lately been reduced. Furthermore, it operates in remote places. However, guerrillas have the capacity to damage the infrastructure of the country a to accomplish terrorist actions; besides, they are highly efficient in international political work;

(c) That the peace process is irreversible, not only because of international circumstances but also as a result of the free play of democracy, of the achievements attained in the field of human rights, and economic and social development To this effect, the Government is not waiting for agreement with URNG to attend to and find a solution to the national problems. In fact, substantial progress has been made, particula in such aspects provided for in the agenda of the negotiations:

(i) On the subject of human rights, all the recommendations iss by Dr. Christian Tomuschat, Independent Expert on human rig for Guatemala, have been met, as shown in his official repo

(ii) On social democratic participation, there is confirmed free of social organization, expression and manifestation. To r to an example, in 1991 alone there were more unions authori than in the five previous years. The Government observes a protects the activities of not legally recognized social organizations, including those that are continuously pointi at the Government. Refugees abroad enter and leave the cou as many times as they wish. Press freedom is unrestricted (including for publications of subversive groups). During 1991, 36 cases of problems in connection with street childr were recorded, and none of them was imputable to the Government's security forces in the exercise of their offic duties. The struggle against impunity and corruption has b a sustained and daily effort.

Advancement of the peace negotiation process

15. Eight months have passed since the beginning of the conversations, and the fact of their existence can be considered an accomplishment. Five negotiation rounds have been held (all of them in Mexico), plus a period of approach through the intermediary mediation system. The advancement of the peace negotiation process proves that democratic coexistence is true and believable, and capable of peacefully solving conflicts of both opinion and interest.

Procedures

16. At the first meeting, held in Mexico City, D.F., on 24-26 April 1991, the Agreement of Procedures regulating the negotiation process was approved, providing that:

(a) Negotiations shall be direct by the parties, with the highest-level delegations, to execute, as soon as possible, a firm and lasting peace agreement wherein the political agreements, the implementation and execution thereof by the parties and the terms of verification of its fulfilment are set forth;

(b) Negotiations must take into consideration the aspirations of all Guatemalan citizens by entering into political agreements in conformity with the constitutional framework in force and pursuant to the El Escorial Accords. These accords acknowledge and extend the Conciliator's duties, particularly both as an informant of and link with the public and the groups interested in the peace process;

(c) It has been confirmed that the process shall be observed by the United Nations and the agreements shall be verified by that international body;

(d) It is anticipated that, when deemed necessary, the mediating negotiation system ("penduleo") may be used, through visits by the Conciliator and the Observer to the parties.

General agenda

17. The general agenda for the negotiations was approved at this meeting; it consists of 11 items. The first 7 items refer to the national problems, and the remaining 4 refer to the political and technical aspects relevant to demobilization and verification of the agreements. The Government had nothing against accepting such a comprehensive agenda because it corresponded to the concept expressed in the "Initiative for the Total Peace of the Nation", and because it expressed the political desire to tackle any subject deemed important, once addressed within the legal framework in force. The general agenda which has been established is the following:

(a) Democratization. Human rights;

(b) Strengthening of civil authority and the performance of the army in a democratic society;

(c) Identity and rights of the Indian population;

(d) Constitutional amendments and electoral system;

(e) Social and economic aspects;

(f) Agricultural conditions;

(g) Resettlement of villages uprooted as a result of armed confrontation;

(h) Basis for the incorporation of URNG in the political life of the country;

(i) Arrangements for a definitive cease-fire;

(j) Chronology for the implementation, execution and verification of agreements;

(k) Execution of a firm and lasting peace agreement, and demobilization.

Agreement on a framework for democratization

18. The "Querétaro Accord", Querétaro, Mexico, 22-28 July 1991. The importance of the Accord lies in the establishment of a set of requirements to strengthen a functional and participatory democracy. The fact of speaking of strengthening implies recognition of the existence of a certain level of democratization of the country. However, the democratic profile is as follows:

(a) Pre-eminence of the civil society;

(b) Development of an institutional democratic life;

(c) Effective operation of a state of law;

(d) Definitive elimination of political repression, fraudulent elections, riots and military pressures, and any destabilizing actions;

(e) Unrestricted respect for human rights

(f) Subordination of the duties of the armed forces to civil authority;

(g) Acknowledgement and respect for the identity and rights of the Indian population;

(h) Access to and enjoyment of all benefits of the national production and natural resources by all Guatemalan citizens, based upon principles of social justice;

(i) Effective resettlement of the villages uprooted by internal armed confrontation.

Elements to reach an agreement on human rights

19. Following two meetings to discuss the human rights situation and the measures for the preservation thereof, it was resolved to use the intermediary ("penduleo") system to attain a more dynamic advance in the preparation of the elements to conclude an agreement on the subject. A partial agreement on human rights was reached on December 1990, which includes the following items:

(a) Commitment by the Government to abide by and enforce respect for human rights. To continue towards the perfection of regulations and mechanisms for the protection of human rights, including the ratification of the International Covenant on Civil and Political Rights;

(b) International verification. To ask the United Nations Secretary-General for the organization and execution of a mechanism of human rights verification in Guatemala, from the date of execution of the Firm and Lasting Peace Agreement. This item of the agreement explains the nature, scope, relations, and powers of the above-mentioned verification mechanism;

(c) Commitment to strengthen the entities for protection of human rights. Reference is made to the judiciary, the Human Rights Attorney, and the Attorney-General's Office;

(d) Commitment against impunity and an amnesty which may confirm it. This includes the commitment made by the Government not to promote legislative or other measures tending to hinder the prosecution and punishment of anyone responsible for violations of human rights. The Government shall promote amendments to the Criminal Code for the categorization and punishment of crimes of lèse-humanité enforced disappearances, as well as any extrajudicial executions. Finally, it is established that no special law or private jurisdiction may defend impunity for the violations of human rights.

Obstacles to the negotiation process

20. The Government was forced to point out publicly some attitudes assumed by URNG that, on a persistent basis constitute obstacles to the development of negotiations, thus making difficult their dynamism and fluency. Such is the case of:

(a) Non-observance of the procedures agreement (to demand that agreements should come into full force and effect on an early and partial basis, and to submit proposals contradicting the legal system);

(b) An attempt to use the negotiations to enhance the military position of the guerrillas;

(c) To carry out disinformation campaigns on the negotiation process.

21. The Government considers that there is no political justification for the guerrillas' persistence, as there are the conditions to give impulse, with full guarantees, to any political project within the legal framework. In addition, it confirms its opinion and interest in accelerating the negotiation process in order to obtain a Firm and Lasting Peace Agreement within the first months of the current year.